

PT 02-26

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

FAITH, HOPE, LOVE IN CHRIST, INC.	) A.H. Docket #	01-PT-0044
Applicant	) Docket #s	99-72-69
	)	00-72-30 through 00-72-32
v.)	
	) Parcel Index #s	18-17-252-027
	)	18-17-252-008 through 18-17-252-010
)	
THE DEPARTMENT OF REVENUE	)	Barbara S. Rowe
OF THE STATE OF ILLINOIS	)	Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Michael Connelly of Sorling, Northrup, Hanna, Cullen and Cochran for Faith, Hope and Love in Christ, Inc.; Mr. George Logan, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held on October 30, 2001, to determine whether Peoria County Parcel Index No. 18-17-252-027 qualified for exemption during the 1999 assessment year and whether Peoria County Parcel Index Nos. 18-17-252-008, 8-17-252-009, and 8-17-252-010 qualified for exemption during the 2000 assessment year.

Mr. Robert Veigel, chairman of the board of Faith, Hope Love in Christ, Inc., (hereinafter referred to as the "Applicant"), Mr. Robert Kaiser, treasurer of applicant, and Mr. John Harper, state executive director of Teen Challenge Illinois were present and testified on behalf of applicant.

The issues in this matter include: first, whether applicant was the owner of Parcel Index No. 18-17-252-027 during the 1999 assessment year and whether applicant was the owner of Parcel Index Nos. 18-17-252-008, 18-17-252-009, and 18-17-252-010 during the 2000 assessment year; secondly, whether applicant is a religious or charitable organization; and lastly, whether these parcels were used or being adapted for exempt use by the applicant during the 1999 and 2000 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemptions be denied. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Peoria County Parcel Index No. 18-17-252-027 did not qualify for exemption during the 1999 assessment year and Parcel Index Nos. 18-17-252-008, 18-17-252-009, and 18-17-252-010 did not qualify for exemption during the 2000 assessment year was established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 7)

2. On September 8, 1999, the Department received the request for exemption of Peoria County Parcel Index No. 18-17-252-027. On February 25, 2000, the Department denied the requested exemption finding that the property was not in exempt ownership and not in exempt use. On March 2, 2000, applicant timely protested the denial and requested a hearing. The hearing on October 30, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

3. On October 27, 1997, applicant acquired the following real estate by a quitclaim deed:

Lots 1, 2, and 3, all in Range 5 in WRIGHT'S SUBDIVISION of HAMLIN'S OUTLOTS, in the West ½ of the Northeast ¼ of Section 17, Township 8 North, Range 8 East of the 4th Principal Meridian, situated in the City of Peoria, County of Peoria and State of Illinois and

The southeasterly One Hundred Three (103) feet of the northwest-southeast Sixteen (16) foot alley between Olive Street and Cass Street, southeast from Southwest Jefferson Avenue to the northeast-southwest alley, lying southwesterly of Lots One (1), Two (2), Three (3) and Four (4), Range Five (5), in Wright's Subdivision and northeasterly of Lot Four (4) in Spurck's Addition, situate, lying and being in the city of Peoria, County of Peoria and State of Illinois, and

Lot (1) and Ten (10) feet of even width by full depth of lot off of Lot Two (2), adjoining Lot One (1) in Block "A" in MCREYNOLDS & SPURCK'S ADDITION to the City of Peoria, situated in the City of Peoria, County of Peoria and State of Illinois, and

Lots 4, 5 and 6 in Block "B" in MCREYNOLDS & SPURCK'S ADDITION to the City of Peoria, situated in the City of Peoria, County of Peoria and State of Illinois.

P. I. N. 18-17-252-012

P. I. N. 18-17-252-013

A notation on the conveyance states "NEW 18-17-252-025." Applicant has no knowledge if the deed is to the subject parcels¹. (Dept. Ex. No. 1; Tr. p. 41)

4. Parcel Index No. 18-17-252-027 contains .44 acres. Located on the parcel are two buildings. Building one has three stories and is comprised of 2,419.81 square feet. Building two is a two-story building comprised of 5,499.55 square feet. (Dept. Ex. No. 1)

5. On July 28, 2000, the Department received the request for exemption of Peoria County Parcel Index Nos. 18-17-252-008, 18-17-252-009, and 18-17-252-010. On April 26, 2001, the Department denied the requested exemptions finding that the property was not in exempt ownership and not in exempt use. On May 16, 2001, applicant timely protested the denial and requested a hearing. The hearing on October 30, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

6. Parcel Index No. 18-17-252-010 is a 40 by 150 square foot lot. It contains a building with classrooms. (Dept. Ex. No. 1 pp. 159-166)

¹ WHEN IT WAS DISCOVERED THAT APPLICANT HAD NOT INCLUDED THE DEEDS TO THE SUBJECT PROPERTIES, THE ATTORNEY FOR APPLICANT WAS CONTACTED. A COPY OF A TITLE COMMITMENT POLICY DATED 2002 WAS SUBMITTED. THE POLICY DID NOT ESTABLISH THE PARCEL INDEX NUMBERS TO THE PROPERTIES LISTED THEREON OR THAT APPLICANT OWNED THE SUBJECT PROPERTIES IN 1999 AND 2000.

7. Parcel Index No. 18-17-252-008 is a 35 by 150 square foot lot that contains no buildings. The house on the property was demolished in 1998. (Dept. Ex. No. 1 p. 170)

8. Parcel Index No. 18-17-252-009 is a 35 by 150 square foot lot. It contains a planned outdoor recreation area and a building that contains areas for storage and recreation. (Dept. Ex. No. 1 pp. 180-190)

9. Applicant provided the quitclaim deed dated October 27, 1997, to Parcel Index Nos. 18-17-252-012 and 18-17-252-013, with the notation “NEW 18-17-252-025” with this application as well. (Dept. Ex. No. 1 pp. 183-184)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if, upon making application for the exemption, the applicant provides affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code . . . and either (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based upon an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services

In order to qualify for a property tax exemption, an applicant must prove that the property is owned by a charitable organization and used for charitable purposes. Here, the appropriate exemption applies to "institutions of public charity." Our courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Methodist Old People's Home").

Applicant acquired Parcel Index Nos. 18-17-252-012 and 18-17-252-013 by a quitclaim deed dated October 27, 1997. The property acquired by the quitclaim deed became new Parcel Index No. 18-17-252-025.

The quitclaim deed is for lots in Peoria, Illinois including lots 1, 2, and 3 in Range 5 in Wright's subdivision in the West ½ of the N.E. ¼ of §17, Township 8 North, Range 8 East of the 4th Principal Meridian; the southeasterly one hundred three (103) feet of the northwest-southeast sixteen (16) foot alley between Olive and Cass streets in Spurck's addition; and in McReynolds & Spurck's addition, lots one and ten (10) feet off of lot two (2) adjoining it, and lots 4, 5, and 6 in block "B". Parcel Index Nos. 18-17-252-012 and 18-17-252-013 were listed on it. "New 18-17-252-025" was written below the parcel index numbers. Applicant supplied property tax cards showing a building permit record for remodeling of Parcel Index No. 18-17-252-025. (Dept Ex. No. 1 pp. 22, 40) According to that document, Parcel Index No. 18-17-252-025, which is not the parcel index number at issue, contains .44 acres.

Another property tax card provided by applicant showed that Parcel Index No. 18-17-252-012 was voided in 1993 and the division and consolidation made Parcel Index Nos. 18-17-252-025 and 026. (Dept. Ex. No. 1 p. 41) The document conveys no interest in land, but even if it did, Parcel Index Nos. 18-17-252-025 and 18-17-252-026 are not the parcel index numbers that the applicant requested an exemption for, and are not at issue.

Applicant also supplied a Real Estate Transfer Declaration (Dept. Ex. No. 1 pp. 23-26) for Parcel Index Nos. 18-17-252-013 (010) (012) referencing a deed dated October 1992. The legal description is for part of lots one through six of Wright's Subdivision. This document establishes, at best, that in October 1992 the applicant owned some properties. Applicant has failed to show that these properties that it owned in October 1992 are the same properties at issue in this matter. Furthermore, even if these properties included the properties at issue, applicant failed to show that it remained the owner of the properties for the 1999 and 2000 assessment years.

Applicant applied for a property tax exemption for Parcel Index No. 18-17-252-027 for the 1999 assessment year. Applicant provided no information that it in fact owned Parcel Index No. 18-17-252-027 in 1999.

Applicant applied for a property tax exemption for Parcel Index Nos. 18-17-252-008, 18-

17-252-009, and 18-17-252-010 for the 2000 assessment year. Applicant supplied no information that it owned those properties in 2000. The quitclaim deed supplied by applicant is not for the properties in issue.

Applicant has therefore not established that it owned Parcel Index No. 18-17-252-027 for the 1999 assessment year and Parcel Index Nos. 18-17-252-008, 18-17-252-009, and 18-17-252-010 during the 2000 assessment year.

As applicant has failed to establish that it owned the properties in question, it is recommended that Parcel Index No. 18-17-252-027 remain on the tax rolls for the 1999 assessment year. It is further recommended that Parcel Index Nos. 18-17-252-08, 18-17-252-09, and 18-17-252-010 remain on the tax rolls for the 2000 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
Date: April 18, 2002